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AMO's Response to *Waste Management Planning in Ontario* (Initiatives Paper No. 2)

Association of Municipalities of Ontario
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MISSION STATEMENT

AMO unites Ontario's municipalities.

We take pride in promoting, supporting and enhancing strong and effective municipal government.

We provide strategic leadership by:

- developing and effectively promoting responsive quality policy;
- informing and educating governments, the media and the public;
- marketing innovative and beneficial services.

Our elected representatives, municipal officials and association staff form a team which values and respects:

- diversity and local autonomy;
- fairness and equity;
- consultation;
- consensus;
- co-operation.

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EXECUTIVE SUMMARY

The Ministry of the Environment released Initiatives Paper No. 2, Waste Management Planning in Ontario, on March 31, 1992. It proposes changes to the waste management planning process.

AMO first identified the need for waste management planning reform in 1989 when it produced The Waste Management Planning and Approvals Process. AMO is now pleased to respond to this important Provincial document.

While AMO is generally supportive of the planning process outlined in Initiatives Paper No. 2, it has become apparent that two major issues must be addressed before AMO can reasonably assess modifications to the waste management planning process. These two issues are financing and legislative reform.

Financial Reform

AMO strongly believes that waste management issues cannot be effectively discussed until their financial arrangements are determined. Therefore, waste management service delivery and the division of financial responsibilities should be the first issues discussed by the Province and municipalities. The Ministry of the Environment should make waste management financing an issue of the highest priority. Financial issues which must be addressed include funding for the planning exercise and funding for waste management facilities. Waste management service delivery and its related financial responsibilities may eventually be part of the discussions on Provincial-municipal disentanglement. However, AMO believes these issues should be addressed in the WRO's "Who Pays" discussion paper and the development of this discussion paper should be accelerated.

Legislative Reform

AMO believes that waste management is a unique and growing field and warrants its own governing legislation. Ultimately, all legislation relating to waste management should be included in a new act. This would include legislation and accompanying regulations which result from Initiatives Paper No. 2 and other Initiatives Papers. AMO urges the Ministry of the Environment to create a new waste management act separate from the Environmental Assessment Act for this purpose. AMO provides a number of recommendations on how this new waste management act might be realized.

AMO also believes that it will be difficult for any waste management planning process to be effective without legislative and regulatory support for the approvals process. In order to provide the required support, detailed waste management planning and approvals regulations should be contained under the new waste management act. Legislation and regulations should specify guidelines and methodologies, acceptable waste management components and technologies, a permit-by-rule approvals process with an appeal mechanism, and a transition/compensation mechanism for proponents impacted by changes to the planning process. This regulated planning process should replace the Waste Management Master Plan program and the Environmental Assessment Act.

Notwithstanding the above concerns, AMO sees Initiatives Paper No. 2 as the basis of a strong planning process and recognizes that many municipal concerns have been addressed. However, more details, in the form of guideline documents, must be provided before the plan can be properly assessed. Some guidelines have been proposed and these should be provided as soon as possible. Other guidelines are needed, especially for the landfill siting and public participation processes.

A number of comments and recommendations are made regarding the planning process itself. For example, the report asserts AMO's belief that the siting of diversion facilities should remain as simple a process as possible. AMO also urges the Province to recognize the possibility of landfill site expansion as a disposal option separate from the search for a green-field site. AMO supports the Province's proposed "EA Guidance/Decision Point" and encourages further reform directed towards staged acceptance of waste management plans.

Initiatives Paper No. 2 credits AMO for initiating the process of waste management planning reform. AMO is pleased its expertise has been recognized. Since the waste management planning process most affects municipalities, AMO urges the Provincial government to continue to practice extensive municipal consultation during the development of planning policies, legislation and regulations. A similar consultation process should also be followed when developing other environmental policies which impact municipalities.

1 INTRODUCTION

The Waste Reduction Office of the Ministry of the Environment released Initiatives Paper No. 2, Waste Management Planning in Ontario, on March 31, 1992. The Provincial paper presents suggested reforms to the Waste Management Master Plan program. AMO welcomes the release of this paper as it has been calling for reform of this system since 1989, when it published The Waste Management Planning and Approvals Process.

This document is AMO's response to Initiatives Paper No. 2. It describes the objectives and features of the proposed Waste Management Systems Plan program, then has two major sections. The first discusses AMO's concerns with financing issues and the waste management legislative framework. AMO believes that these issues must be agreed upon by the Province and municipalities before modifications to the planning process can be discussed. The second section provides AMO's comments on the proposed planning reforms. Overall comments are first made, and then the process is discussed task by task.

This paper presumes a familiarity with the process and current problems of waste management planning in Ontario. Readers who require background information on this are directed to the appendices of this paper:

APPENDIX A:	Glossary of Terms
APPENDIX B:	Background on Waste Management Planning
APPENDIX C:	AMO's Previous Policies Regarding the Waste Management Planning Process
APPENDIX D:	References

AMO's response to the proposed reforms is based on previous recommendations concerning waste management planning (presented in Appendix C). AMO has also sought input from waste management master plan steering committee chairpersons and study coordinators. Thirteen of the 42 master plan areas were contacted. Most of the plans in these areas were in the latter half of development.

2 OBJECTIVES AND FEATURES OF INITIATIVES PAPER NO. 2

The Ministry of the Environment (MOE) introduced the Waste Management Master Planning (WMMP) program in 1982 to promote long-term municipal solid waste management. The MOE has since acknowledged a number of problems with this program and has had the Waste Reduction Office prepare Initiatives Paper No. 2, Waste Management Planning in Ontario. This document proposes a new program, the Waste Management Systems Planning program (WMSP program).

Initiatives Paper No. 2 states that the objectives of the WMSP program are to:

- ensure the development of sustainable waste management systems which will, collectively, exceed Provincial objectives for waste diversion and provide for environmentally sound waste disposal;
- assist municipalities to undertake proper planning in accordance with the Environmental Assessment Act, policies and guidelines;
- provide a planning process that leads to an accelerated implementation of 3Rs activities, systems and facilities; and
- encourage group (more than one municipality) planning, development and implementation of environmentally sound waste management facilities which can be better developed and managed by the pooling of resources within a group.

The MOE says the features of the WMSP program are:

- accelerated 3Rs implementation;
- a two-stream planning process which ensures that development and approval of a sound waste diversion strategy may proceed expeditiously prior to approval of new disposal facilities;
- a possible environmental assessment (EA) guidance/decision point provided as part of the

planning process of a Waste Management System Plan. This would provide certainty before proceeding with the site selection for any facility requiring EA approval. This EA guidance/ decision point, if incorporated as part of EA reform, would occur prior to selecting the preferred site and formal EA approvals;

- detailed guidance and support materials;
- one window/one voice MOE support for the program. This would be delivered through the Ministry's regional offices and provide more timely, consistent input; and
- strengthened public consultation throughout the planning and implementation process by providing clear guidance and direction for the development and implementation of an effective consultation program.

3 FINANCING AND LEGISLATIVE FRAMEWORK CONCERNS

AMO wishes to commend the Waste Reduction Office (WRO) on the work it has undertaken in its attempt to reform the waste management planning process. Many of AMO's planning concerns have been addressed and AMO feels these reforms are a positive step in the area of municipal waste management. A full discussion of the substantive planning issues is provided in Section 4 of this paper.

Notwithstanding this support, AMO has two major concerns which must be addressed by the MOE before the potential impact of the planning reforms can be seriously assessed: financial responsibilities related to waste management planning and service delivery, and a definitive legislative framework for waste management.

3.1 Financial Responsibilities for Waste Management

3.1.1 Increased Priority for Financial Issues

Solid waste management has been the domain of municipalities for at least as long as there has been residential curbside garbage collection and disposal.

Costs for these activities used to be a relatively small burden on the municipal tax base and were easily absorbed by municipalities.

Over the past twenty years, waste management costs have been increasing for several reasons, including an increasing level of waste diversion activities (eg. Blue Box recycling), more complex planning exercises, and increasing costs for waste management facility construction and servicing.

Most of these activities have been imposed by the Province with no municipal input, and they have placed considerable pressure on the municipal tax base. For many smaller communities the tax base is not large enough to support the increase in waste management activities, particularly when there are so many other demands on that revenue.

Inexplicably, there has been no serious discussion concerning the waste management roles and responsibilities of the Provincial and municipal levels of government. Of equal importance is the division of financial responsibility between the two levels. These discussions must take place and AMO should be involved in them as an equal partner.

AMO believes that resolving the waste management service delivery and associated financing issues should be the MOE's highest priority for two reasons. First, without a general framework for the allocation of responsibility and costs, it will be difficult for AMO to respond appropriately to *any* new Provincial waste management initiatives. AMO currently finds itself in this situation with the proposed reforms to the waste management planning process. Second, limited financial resources for both levels of government mean priorities must be established and the feasibility of waste initiatives must be assessed. Service delivery responsibilities and financial considerations must first be decided in order to provide a sound basis for these activities.

Waste management service delivery and its related financial responsibilities may eventually be part of the discussions on Provincial-municipal disentanglement. However, at this time AMO believes these issues should be discussed and agreed upon by accelerating the "Who Pays" discussion paper now being developed by the

WRO. AMO urges the Provincial government to discuss waste management planning reform and other waste management initiatives in the broader context of "who pays."

RECOMMENDATION #1:

The Ministry of the Environment should make the division of waste management responsibilities between the Provincial and municipal levels of government, especially financial responsibilities, an item of the highest priority. The Ministry should initiate discussions on this matter and should also ensure that AMO is an equal partner in these discussions.

RECOMMENDATION #2:

The Ministry of the Environment should discuss waste management planning, and any other Provincial waste management initiatives, in the broader context of "who pays." This should be done by accelerating the Waste Reduction Office's forthcoming initiatives paper on the subject.

3.1.2 Funding and the Planning Exercise

The current WMMP program covers 50% of eligible expenses for a waste management planning exercise. While this is a reasonable division for larger municipalities, smaller municipalities pay a significantly higher amount than the larger ones when compared on a per capita basis. The result is that smaller communities have to increase their municipal tax rates by a higher amount than do larger communities. For communities with low tax rates, the required increase can be dramatic. This is unfair to smaller municipalities.

The MOE recognized the financial burden on smaller planning authorities, and in Initiatives Paper No. 2 said

it "is working to develop an acceptable funding mechanism" for the planning process (page 8).

Regarding this funding mechanism, AMO believes that the Province should be responsible for at least half of study costs since it has designed the planning process to meet Provincial requirements. The funding mechanism should also take community characteristics into consideration such as population or total tax base. The funding mechanism might also set a maximum per capita municipal charge or maximum percentage increase in the municipal tax rate.

The exact funding mechanism should be discussed in the broader discussion of waste management financing.

RECOMMENDATION #3:

In any new funding mechanism for waste management planning studies, the Ministry of the Environment should ensure that:

- **the province pay for at least half of the study costs; and**
- **community characteristics, such as population or total tax base, are recognized.**

The Ministry of the Environment should discuss the waste management planning funding mechanism in the broader discussion of waste management financing and responsibilities.

3.1.3 Facilities Funding

The WMSP program, as outlined in Initiatives Paper No. 2, does not take into consideration the financing of facilities which would have to be implemented to satisfy a waste management study plan.

AMO believes the issue of waste management facilities financing is an important one, and the Ministry of the Environment should discuss it in the broader context of

waste management funding and responsibilities (i.e. "Who Pays").

RECOMMENDATION #4:

The Ministry of the Environment should discuss waste management facilities funding in the broader discussion of waste management funding and responsibilities.

3.2 A New Waste Management Act

Initiatives Paper No. 2, Waste Management Planning in Ontario, is the second in a series of papers to be released by the Waste Reduction Office. It was released with the Ministry of Municipal Affairs (MMA) discussion paper, Municipal Waste Management Powers in Ontario, and was preceded by Initiatives Paper No. 1, Regulatory Measures to Achieve Ontario's Waste Reduction Targets. Other initiatives papers are being developed which will discuss technical issues such as measuring and costing waste, "Who Pays" for waste management, and the marketing of Blue Box materials.

It is unclear how these Initiatives Papers will be incorporated into legislation. Modifying the current legislative framework will mean many changes to many acts, with the potential for future conflicts and inconsistencies between different acts.

Alternatively, a new act which centralizes all elements of waste management would significantly reduce these conflicts, and would make future modifications to legislation and regulation much simpler.

AMO believes that waste management is a unique field and is one which deserves its own governing legislation. AMO thus urges the MOE to create a new waste management act to deal exclusively with waste management issues. The following pages expand on this idea, which was initially raised in Recommendation #2 of AMO's Response to Bill 143 (Report #92-1).

AMO first called for a waste management act because the EA Act was dealing ineffectively with waste management planning issues. AMO agreed with the

intent of the EA Act, but felt it was possible to develop the concepts within the act into specific regulations for the area of waste management.

AMO now believes a functional focus for waste management legislation is needed to assist in satisfying the many requirements of current and forthcoming waste management legislation. The act's main purpose would be to centralize all Provincial waste management legislation and regulations.

Important components which should ultimately be included in the act are:

- a comprehensive guiding vision statement which establishes the principles to direct future Provincial waste management legislation;
- a Provincial waste strategy. The Minister has announced waste diversion goals of 25% by 1992 and 50% by 2000. These should be placed in legislation. Similarly, the Provincial view on the role and importance of each of the 4Rs (reduction, reuse, recycling and recovery of energy from waste) should be declared;
- clarification of the service delivery responsibilities and financial obligations of the Province and of municipalities with respect to waste management;
- municipal statutory authorities. AMO has called for more details on the waste management powers of municipalities (this is addressed in the 1992 MMA discussion paper, Municipal Waste Management Powers in Ontario);
- provisions for a regulated waste management planning process;
- other waste management requirements which are currently found in other acts, such as relevant sections of the EPA; and
- new elements of waste management which result from the WRO's Initiatives Papers.

Regulations which follow from this legislation would also have to be created or amended as appropriate.

RECOMMENDATION #5:

The Provincial government should work with AMO to develop a waste management act, separate from the Environmental Assessment Act, which addresses waste management for all Ontario municipalities.

The new act should include:

- **a guiding vision statement;**
- **a Provincial waste strategy;**
- **clarification of the waste management roles and responsibilities of the province and municipalities;**
- **municipal statutory authorities;**
- **provisions for a regulated waste management planning process;**
- **other waste management requirements which are currently found in other legislation;**
- **new elements of waste management which result from the Waste Reduction Office's Initiatives Papers.**

3.2.1 How to Get There

In order to create a new waste management act, strong leadership will be required within the MOE. AMO believes that the Waste Reduction Office (WRO) has shown this leadership. It has prepared two Initiatives Papers to date and is working on several others. These papers could have a profound impact on waste management activities in Ontario. With the WRO's demonstrated leadership and experience, AMO believes it should be the lead waste management agency.

In order for the efforts of the WRO to be most effective, the MOE should direct the WRO to draft legislation for the creation of a waste management act.

In carrying out its leadership role, the WRO should continue the consultation process which has characterized its work to date. Thus, developments should be made in consultation with AMO, the EA and Waste Management Branches within the MOE, and other Provincial ministries which have a reasonable stake in the development of a new waste management act.

Financial and service delivery issues should be the first area to be dealt with in the new act (see recommendations one through four of this paper). Once this is done, a waste management planning and approvals section should be created to replace the WMMP program and the EA process, and to formalize the guidelines outlined in Initiatives Paper No. 2.

The WRO should also have the responsibility of collecting and reviewing other legislation which relates to waste management, ensuring its consistency with the intent of the act and with other legislation, and then including it in the waste management act.

RECOMMENDATION #6:

The Ontario government should designate the Waste Reduction Office as the lead agency in municipal waste management.

RECOMMENDATION #7:

The Ministry of the Environment should direct the Waste Reduction Office to draft legislation for the creation of a waste management act. When developing the legislation and related regulations of the act, the Waste Reduction Office should work with AMO.

RECOMMENDATION #8:

The Ministry of the Environment should ensure that financial and service delivery issues are the first to be dealt with in the new waste management act.

RECOMMENDATION #9:

The Waste Reduction Office should formalize the guidelines of Initiatives Paper No. 2 by developing detailed regulations from them once the provincial consultation period is complete. These regulations should fall under the waste management act.

RECOMMENDATION #10:

The Minister of the Environment should give the Waste Reduction Office the responsibility of collecting and reviewing other legislation which relates to waste management and ensuring its consistency before including it under the waste management act.

3.3 The Waste Management Act and Waste Management Planning

Initiatives Paper No. 2 provides a much improved planning process but does not address the issue of planning approvals. AMO has previously noted the lack certainty in the approvals process in The Waste Management Planning and Approvals Process and AMO's Response to Bill 143.

Under the current WMMP program, the lack of certainty is caused entirely by requiring waste management master plans to be approved under the EA

Act. The EA Act's guidelines are very broad and each interpretation of them by the EA Board sets a more restrictive precedent. This forces proponents which are in the midst of their plans to rework them. This process has led to lengthy and expensive master plans.

AMO does not believe the proposed planing process in Initiatives Paper No. 2 improves the approvals process. The proposed process continues to give the EA Branch and EA Board power of approval for a planning process which has been developed and is administered by the Waste Reduction Office. This creates many problems:

- the Initiatives Paper states that the WMSP program is "consistent with the processes of the Environmental Assessment Act" (page 8). However, the EA Board is not bound by any of the WMSP planning requirements. Thus, while the WRO develops the requirements, the EA Board can overrule them if it sees fit. Thus, proponents following the WMSP guidelines remain exposed to the discretion of the Board;

- it is uncertain whether the current EA Act would permit the separation of diversion activities from the rest of the waste management systems plan if the issue came before an EA hearing;

- the EA Branch has refused to publish binding guidelines, in the form of regulations, regarding the interpretation of the EA Act. Without these regulations, the EA Act remains open to EA Board interpretation; and

- with all of the public consultation, time and expense which proponents must go through to satisfy the requirements of the proposed WMSP, this completed plan will only "form part of the rationale for the subsequent environmental assessment of the facility or plan" (Initiatives Paper No. 2, page 13). There remains a large potential for the goals of the WRO and the EA Branch to be inconsistent and, subsequently, for proponents to have to restart their efforts.

To remedy these problems, AMO believes that the waste management planning and approvals process must be directed by a single regulating agency. This agency should provide a well-defined (i.e. comprehensive,

consistent and certain) set of requirements which proponents could follow when developing their waste management plans. If all planning requirements are met, plans should be allowed to proceed.

A number of issues should be specified in waste management planning legislation and regulations. These include:

- Provincial regulations setting the study terms of reference, generic waste composition models, planning requirements, methodology guidelines and public participation requirements;
- MOE-approved technologies for controlling or processing waste products;
- Provincially accepted waste management components. The Minister has effectively banned export of waste and incineration from the waste management planning process, but not from the purview of the EA process. This discrepancy needs legislative clarification;
- detailed public participation guidelines for the planning process;
- a generic planning process based on the planning requirements. This process should include a staged acceptance mechanism which would provide proponents with full protection for stages which have been completed and approved;
- definitive landfill siting regulations;
- an appeal mechanism which would take appeals before an independent waste management appeal board. This board would judge whether the regulations under the waste management act had been followed by a proponent in its waste management plan. The board may also make recommendations to the Minister of the Environment regarding changes to waste management legislation or regulations;
- a permit-by-rule type approval mechanism. This would mean that the MOE would no longer have a review function. Instead, the MOE, or any other ministry, interest group or individual, could

appeal to the waste management appeal board (within a limited amount of time), if it felt any legislation or regulations had been violated. This proposal is similar to concepts put forward by the Sewell Commission on land use planning reform (New Planning News, April 1992); and

- a transition/compensation mechanism for proponents which have to modify their plans as a result of changes to the waste management planning legislation or regulations. Compensation should be extended to all proponents except those in the earliest stage of their planning study. The "earliest stage" should be defined as before the completion of Stage 1 (data collection) of the current Waste Management Master Plan.

A new waste management act would provide the appropriate vehicle for waste management planning reforms. This act should replace the Waste Management Master Plan program and the EA Act for waste management planning activities. EA principles could, and should, be incorporated into the new act, and should also be made explicit in regulations. This extension would eliminate the subjective discretion of an adjudicator during an appeal of a plan.

AMO understands that the EA program is now under review by the MOE. AMO applauds this undertaking, but believes that a separate act for waste management is appropriate and beneficial.

3.3.1 Benefits of Waste Management Planning Legislation

There are many benefits to creating legislation and regulations for the waste management planning process.

a) Good planning tools would be used uniformly across the Province and all municipalities would be treated equally.

b) Municipalities could deal with a single agency (the one responsible for the act) and a relatively certain and stable planning process.

c) A staged acceptance for plans would protect proponents from having to defend all phases of a project at a final hearing and possibly having

to start their plans from the beginning. Both the certainty and the protection aspects of the act would mean that the time and costs of studies would be dramatically reduced. Since the act would have an independent appeal board with its scope limited to explicit regulations, the time and expense of appeals would again be reduced.

Appeals would provide protection against poor planning efforts, but time limits for appeals would speed up the planning process. Restricting appeals to infringements of the legislation would also speed up the process.

d) There would be an orderly way of dealing with modifications to the planning process. Currently, the EA Board's decisions have the impact of precedent-setting legal decisions. This is a source of frustration for proponents because the principles which support the decisions are ill-defined. Regardless, proponents know that if their plan is to pass, it must meet any new requirements created by an EA Board decision.

Under the waste management act, Provincial requirements would be specified "up-front" for proponents to meet. Initial requirements may well be based on past EA Board decisions. However, future changes would have to be made through government-initiated legislation. The waste management appeal board would not be able to demand new requirements, but would have to petition the Minister of the Environment for changes to be made to the act.

As a result, changes would be orderly, well thought-out and open to a consultation process. Also, proponents in the midst of waste management plans would be made aware of any changes through formal Provincial channels. They would also have the opportunity to discuss any compensation which may be required.

e) There would be protection for proponents following the planning process in good faith. Planning costs are of great concern to municipalities, and a large component of these costs comes from having to satisfy the requirements of precedent-setting EA decisions.

With good, stable planning requirements stipulated by regulations, and an orderly modification process, proponents would be protected from unforseen requirements.

RECOMMENDATION #11:

The Provincial government should work with AMO to develop waste management planning and approvals legislation to be contained in a new waste management act. This legislation should replace the Waste Management Master Plan program and the Environmental Assessment Act. Regulations developed under this legislation should include:

- **waste management planning regulations specifying guidelines and methodologies to be followed;**
- **MOE-approved technologies for controlling or processing waste products;**
- **acceptable waste management components;**
- **detailed public participation guidelines;**
- **a generic planning process with staged acceptance;**
- **definitive landfill siting regulations;**
- **an appeal mechanism;**
- **a permit-by-rule type approvals process; and**
- **a transition/compensation mechanism.**

4 INITIATIVES PAPER NO. 2 AS A PLANNING DOCUMENT

4.1 Overall Comments and Recommendations

AMO applauds the MOE and the WRO for taking a leadership role in attempting to improve the waste management planning process. AMO considers Initiatives Paper No. 2 a step forward in making the process more certain and easier to follow.

AMO's comments and recommendations regarding this proposed process are made on the assumption that the proposed reforms will eventually have the power of legislation, and thus be stable.

Two tier system

AMO considers the separation of waste diversion components from waste disposal components a positive modification. It should, as anticipated by the MOE, speed up diversion activities. It should also simplify the approval of diversion facilities by taking advantage of the permit-by-rule approval process which was proposed in Initiatives Paper No. 1.

Funding consolidation

AMO is pleased the MOE will provide a list of funding opportunities for proponents and will consolidate the number of waste management funding programs.

MOE advisory positions

AMO is also pleased its call for coordinating MOE information through one window has been addressed. The WRO has proposed a one window/one voice service. One trained advisor is to be provided in each of the six regional offices to deal with communication issues.

However, AMO believes that more Provincial resources must be dedicated to this advisory position for several reasons. First, more than six advisors are required. There are currently 42 master plan studies under way, which means that advisors would have, on average, seven plans to service. Second, proponents have experienced much turnover in their former Provincial advisory staff. In an effort to improve continuity, there should be an advisory team of two for each plan. (Teams could advise on more than one plan.) Third, the position of such an advisor is expected to be a very demanding one,

requiring much knowledge on the workings of the MOE. AMO supports the MOE proposal to train these individuals, but encourages the MOE to provide the resources to fill these positions with people who have experience with the master plan process.

RECOMMENDATION #12:

The Ontario government should dedicate more resources to the important position of Provincial plan advisor. The government should ensure that:

- **more than one advisor per regional office is provided; and**
- **each proponent has a Ministry of the Environment advisory team of two.**

Proponent's study coordinator

AMO is pleased that the proponent's study coordinator will be a Provincially-funded individual. However, AMO does not believe this person will have the capacity to provide proponents with the required legal expertise necessary to carry out waste management plans. Funding should be provided to ensure municipalities have this legal expertise.

RECOMMENDATION #13:

The Provincial government should include the costs of retaining legal counsel for advice in preparing a Waste Management System Plan Study in the items fundable under the Waste Management Plan Study Program.

Guidance documents

AMO is very pleased that the Province will formalize its guidance and directives. The Province is expecting to produce three guides to assist with the waste management planning exercise. These are:

- *Study Terms of Reference* - an outline of the activities which proponents must follow in the planning exercise in order to qualify for Provincial funding.

- *Guide to Municipal Waste Management Planning* - a "how to" guide outlining the planning tasks and MOE requirements. Its purpose is to assist study groups, the public, and Ministry representatives in understanding the waste management plan process; and

- *Provincial Policy Reference Guide for Municipal Waste Management Planning* - a reference source providing an overview of all relevant Provincial legislation, regulations, policies and guidelines for proponents planning waste management facilities. This should prove very useful for proponents conducting waste management plans.

The three documents together form the core of the waste management planning reforms. However, the difference between the terms of reference and the planning guide is not clear.

Also, a draft of the terms of reference is provided in Initiatives Paper No. 2, but only an outline of the planning guide is provided. The planning guide may contain important details of the planning process which have not been presented in the Initiatives Paper.

In order to clarify these points, AMO encourages the MOE to release the three guidance documents as soon as possible.

RECOMMENDATION #14:

The Ministry of the Environment should produce detailed drafts of the terms of reference, planning guide, and policy guide relating to the proposed waste management planning reforms as soon as possible.

Public consultation

Initiatives Paper No. 2 clearly indicates that the public must be consulted at virtually every stage of waste management planning and that proponents must indicate how the public's concerns were acted upon. Unfortunately, the paper does not propose to create procedural guidelines for public meetings. Such a document would complement the above three guideline documents and would greatly clarify the role and expected input of the public for all parties involved. Public consultation is currently a cornerstone of all Provincial activity, and it behooves the government to propose public participation guidelines.

RECOMMENDATION #15:

The Ministry of the Environment should develop definitive public participation guidelines for waste management planning requirements. These guidelines should clarify the expectations of the public participation process regarding the type and extent of input required. These guidelines should also outline the procedures to be followed at public consultation meetings.

Transition

The Ministry knows many municipalities are currently in the process of developing a Waste Management Master Plan using the current planning process. The MOE, through the Municipal Waste Planning Unit of the Waste Reduction Office, is currently reviewing all Waste Management Master Plans and has said that it will help to develop "bridging plans" where needed. These bridging plans are to bring the studies currently under way into conformity with the new program.

The MOE has clearly recognized that proponents in the process of planning for waste management facilities should not face undue hardship in making the transition from the previous process to the WMSP process. AMO contacted many master plan study chairs and coordinators and they indicated that they were satisfied with the efforts being made by the WRO to accommodate their situation. AMO is pleased with the

WRO's effort and hopes that it continues in the future.

With an eye to the future, AMO urges the MOE not to penalize any planning jurisdictions which have been following the WMMP program in good faith. If any parts of these plans must be reworked, the Province should fund 100 per cent of the rework.

RECOMMENDATION #16:

The Ministry of the Environment should not penalize any planning jurisdictions which have been following the WMMP program in good faith. If any parts of these plans must be reworked, the province should fund 100 per cent of the rework.

Finally, increased research and knowledge gained through completing and implementing plans means that no waste management planning process will remain fixed. As a result, a transition mechanism should be designed for proponents which are affected by changes to the planning process.

The MOE has already funded a discussion paper on this issue as it relates to the EA Act (see the paper by the MOE, Ontario Waste Management Association and Pollution Probe, 1992, noted in Appendix D). AMO is disappointed that the municipal perspective was not represented in these discussions, and it urges the MOE to involve AMO in any further discussions on the matter.

RECOMMENDATION #17:

The Ministry of the Environment should ensure that municipalities are represented in discussions dealing with a transition mechanism for waste management planning changes.

4.2 Task by Task Review of the Planning Study

This section provides AMO's comments and recommendations on each of the tasks of the proposed waste management planning study.

4.2.1 Task 1: Assessment of Problems and Opportunities

The first task of the proposed planning study is very similar to the first stage of the WMMP program. This task involves collecting the data which forms the basis for the rest of the study. This task also requires that proponents describe current waste practices and expected future needs. The draft terms of reference in Appendix C of Initiatives Paper No. 2 provides a detailed list of requirements.

AMO has previously called for Provincially-developed generic waste composition models for the different categories of municipalities. These models would reduce the time and expense now required to gather information which is not substantially different within the categories.

The Initiatives Paper does not address this issue. AMO thus repeats its recommendation, noting that much work has been done by the Ministry in carrying out several waste composition studies (see the MOE's Residential Waste Composition Study).

RECOMMENDATION #18:

The Ministry of the Environment should develop generic waste composition models covering the range of municipalities in the province. These models could be used as "off the shelf" databases suitable for use in Task 1 reports of Waste Management System Plan Studies.

4.2.2 Task 2: Development of the Waste Diversion Strategy

Task 2 and Task 3 together make up the diversion element of the proposed planning study. These tasks can be undertaken independently of the disposal element. Under the proposed plan, the MOE encourages diversion facilities by subjecting them to a less stringent approvals process.

Potential waste diversion components are initially evaluated in Task 2 by screening them through generic criteria provided by the MOE. Screened components are then amalgamated into diversion system alternatives. If more than one alternative is identified, a methodology must be developed to select a preferred system. A procedure must also be developed to choose sites for the components of the selected system. Finally, a report must be produced for the MOE which documents this process. This report is necessary in order to be eligible for ministry funding of diversion facilities.

AMO believes the MOE is under-emphasizing the importance of economic factors in diversion decisions. In Initiatives Paper No. 1, the MOE proposes that most municipalities undertake diversion activities. These requirements were not supported with economic analyses. Furthermore, Initiatives Paper No. 2 proposes to provide generic information on potentially acceptable technologies, but it does not specify whether economic information will be included.

AMO strongly urges the MOE to do more research on the economic aspects of diversion technologies, and to include this information in the generic information that the MOE will provide to municipalities.

Such research activity is best left at the Provincial level since the Province has a larger resource base and better access to the relevant information.

RECOMMENDATION #19:

The Ministry of the Environment should:

- **research the economic aspects of acceptable waste diversion technologies; and**
- **include the results of this research with the generic information which the Ministry will provide to waste management planning proponents.**

4.2.3 Task 3: 3Rs System Implementation

AMO believes that implementation of 3Rs facilities should not be an overly arduous task. AMO was thus pleased that smaller diversion facilities will be exempt from EA Act approval (as a result of Initiatives Paper No. 1). However, there may be difficulties with the siting of these facilities because of the proposed requirement to develop a diversion facility siting methodology in Task 2.

AMO considers the siting of diversion facilities similar to any other municipal siting exercise. Diversion facilities are relatively benign entities with predictable impacts. Thus, the Province should be able to develop definitive minimum standards for 3Rs facilities which proponents can follow. Beyond these requirements, municipalities should be given the latitude to site diversion facilities using their established zoning and other local bylaws. This would remove the need to develop diversion facility siting methodologies.

RECOMMENDATION #20:

The Ministry of the Environment should develop definitive minimum standards for the siting of waste diversion facilities. Beyond meeting these requirements, municipal proponents should be given the latitude to site diversion facilities using established zoning guidelines and other local bylaws.

4.2.4 Task 4: Development of the Waste Management Systems Plan

Task 4 and Task 5 are necessary when waste management facilities require approval under the EA Act. Such facilities include landfills and larger waste diversion facilities. Task 4 integrates the diversion system with the larger waste management components and develops a methodology for siting these larger facilities. Task 5 determines which site is to be selected for the landfill facility based on the Task 4 methodology. Between Task 4 and Task 5 is a potential EA Guidance/ Decision Point. This decision point would provide MOE approval for Task 4 activities. (The exact mechanics of this decision point had not been decided by the MOE when Initiatives Paper No. 2 was released.)

AMO understands that the MOE is emphasizing waste diversion activities and AMO supports these efforts. However, the issue of waste disposal is virtually ignored in Initiatives Paper No. 2. AMO believes that disposal will continue to be a waste management option and thus the disposal planning process should have been addressed more fully by providing very specific guidelines for this activity.

More guidance

The Initiatives Paper says that the methodology for disposal facilities must be developed in a manner consistent with EA Act. However, before this consistency is possible, there must be more certainty within the EA Act. One of AMO's most fundamental concerns has been the vagueness of the EA Act. This vagueness is especially apparent during the landfill siting exercise of a master plan process. The resulting uncertainty is problematic and costly for proponents, and it must be reduced. The proposed generic methodology

for landfill siting begins to do this but the methodology is still too imprecise. Thus, AMO strongly urges the MOE to develop more specific guidelines, in the form of regulations, which proponents can use with confidence when preparing their landfill siting methodologies.

> **RECOMMENDATION #21:**
>
> **The Ministry of the Environment should develop specific and comprehensive regulations which proponents can follow with confidence when preparing their landfill siting methodologies.**

Consideration for expanding existing disposal facilities

The expansion of existing disposal facilities should be an option which proponents could consider before being required to search for a new "green-field" site. There currently exists no Provincially sanctioned mechanism to analyze existing landfills with the purpose of optimizing their remaining capacity.

This "landfill optimization" option would have to be exercised by the proponent well in advance of meeting the scheduled capacity limits so as not to compromise the timing of a new disposal facility if it is determined one is required. Ensuring five years of remaining capacity at the completion of the review should be sufficient. Any landfill expansion should meet the most up-to-date environmental criteria.

There are two major advantages of such an option. First, if the landfill expansion is deemed to be feasible, there would be much less expense incurred since proponents would not have to consider and analyze other sites. Second, there is potential for there to be much less community resistance to the expansion of an established site. While community factors may rule out such an option for some proponents, legislative requirements should not preclude this option (as is currently the case with the EA Act).

RECOMMENDATION #22:

The Ministry of the Environment should allow proponents the option of determining whether it is feasible to expand a current disposal facility. Exercising such an option would be done independently of any green-field analyses and well in advance of meeting landfill capacity limitations (at least five years in advance).

Plan reviews

There are three Provincial reviews within the proposed planning process. The waste diversion strategy is reviewed at the completion of Task 2, and the site selection methodology document is reviewed in Task 4. However, the most important review of the process is the review of the Waste Management System Plan document, also at Task 4.

AMO has commented in previous documents that significant delays result when the Province reviews waste management planning activity. It is for this reason that AMO has advocated an approvals process without a formal Provincial review but with the opportunity for Provincial appeals (see Recommendation #11 of this paper and the discussion leading to it).

Alternatively, if a Provincial review of waste management plans remains, AMO believes that review agency circulation lists should be limited and there should be time limits on reviews.

AMO also recognizes that setting time limits on review periods does not necessarily ensure that they will be met. Thus, besides setting time limits, AMO recommends that the Province dedicate the required resources to review agencies in order that they can perform adequate reviews within the required time limit.

RECOMMENDATION #23:

If the Provincial government insists on a Provincial review for waste management plan approvals, it should:

- **limit review agency circulation lists to those agencies which can be reasonably expected to have concerns or comments on a particular waste management system plan;**
- **impose a time limit of 60 days on the review of Waste Management System Plan Study reviews; and**
- **dedicate the required resources to ensure that review agencies can perform satisfactory reviews within the required time limits.**

4.2.5 The EA Guidance / Decision Point

Initiatives Paper No. 2 says there may be a possible approval point created between Task 4 and Task 5 depending on the outcome of the environmental assessment process review. AMO is extremely supportive of such a Decision Point since it has previously called for a staged acceptance of the waste management planning process.

AMO recommends that the EA Guidance/Decision Point be developed for the waste management planning process, and that with approval at this point, tasks one through four be protected from further challenge at the Task 5 review.

This protection is necessary because of NIMBY concerns (not in my backyard). These concerns often arise during the landfill site selection phase of a waste management plan once the preliminary sites are made known and individuals and communities find themselves directly affected. These communities then assail the site selection criteria which were developed fairly and openly in a previous phase (Task 4 of the Initiatives Paper).

Such attacks are counter-productive and can be costly for the proponent if the methodology must be revisited. The situation may be improved by more thoroughly informing the residents of waste planning jurisdictions of the repercussions of the site selection methodology before it has been decided. However, it must be recognized that NIMBY concerns can never be totally eliminated.

The development of such a Decision Point has other benefits. It would be the first step towards a staged acceptance model for waste management planning. This would help all those with an interest in the planning process (proponents, review agencies and the public) to scope their arguments to the relevant range of issues and appropriate level of planning detail. (AMO first recognized the need for scoping in its report The Waste Management Planning and Approvals Process.) The waste management planning process would also be accelerated without sacrificing the legitimate concerns of interested parties.

RECOMMENDATION #24:

The Ministry of the Environment should develop an EA Guidance / Decision Point which, when gained by the proponent, protects Tasks 1 through 4 from further challenge.

4.2.6 Task 5: Site Selection and EA Documentation

Task 5 of the proposed planning process applies the methodology document of Task 4 to determine the most appropriate disposal site. Final documentation is also prepared for EA Act and Environmental Protection Act (EPA) approvals.

AMO believes the methodology document of Task 4 should be approved at the EA Guidance/Decision Point, and this approval should mean that all EA Act requirements have been satisfied. Thus, approval at Task 5 should only require meeting the specifications of the methodology document and the technical requirements of the EPA.

RECOMMENDATION #25:

The Ministry of the Environment should explicitly state that in order to gain approval at Task 5, proponents need only meet the requirements of the site selection methodology document and the Environmental Protection Act.

With the waste management planning experience gained by the MOE to date, it should be able to create a relatively stable set of generic methodological requirements for landfill site selection. However, AMO recognizes that the waste management planning process must be able to adapt to new findings. For instance, the requirements of Task 4 may have to be modified as a result of legitimate concerns discovered through experience with the siting process. However, proponents in the midst of planning exercises should be fully compensated for any additional work they may have to do to adapt to these changes. This protection should extend to any proponent doing a waste management plan, but especially to those which have completed the requirements of Task 4 of the proposed Waste Management Systems Plan.

RECOMMENDATION #26:

The Ministry of the Environment should fully compensate proponents which are required to do more work as a result of unforeseen modifications to the waste management planning process. This protection should extend to any proponent doing a waste management plan, but especially to those which have completed the requirements of Task 4 of the Waste Management Systems Plan.

5 CONSULTATION ON THE DOCUMENT

Initiatives Paper No. 2 credits AMO for initiating the process of waste management planning reform. AMO is pleased its expertise has been recognized and that two AMO representatives were able to sit on the steering committee which oversaw the development of the document.

The waste management planning process is one area of environmental concern which directly affects municipalities. AMO thus urges the Province to continue to include municipalities in the development of policies, legislation and regulations which follow from Initiatives Paper No. 2.

The Province should also adopt an extensive municipal consultation process, similar to that used in the development of this Initiatives Paper, for other waste management and environmental policies which impact municipalities.

RECOMMENDATION #27:

The Provincial government should continue to include municipalities in the development of policies, legislation and regulations which follow from Initiatives Paper No. 2. The province should also adopt an extensive municipal consultation process as standard practice for other waste management and environmental policies which impact municipalities.

6 CONCLUSION

AMO appreciates the opportunity to provide municipal feedback to the Province on Initiatives Paper No. 2, Waste Management Planning in Ontario. AMO is pleased it was recognized as the initiator of the Provincial review of the waste management planning process and that it was involved so closely in the development of the resulting paper. AMO believes a strong municipal consultation process is necessary when developing waste management policy in order to properly address municipal concerns. AMO urges the Province to continue such consultation practices when developing other environmental policies which impact municipalities.

AMO sees Initiatives Paper No. 2 as the basis of a strong planning process. The guideline documents which complement the Initiatives Paper should be released as soon as possible in order to better assess the proposed planning process. AMO's main concerns with this process pertain to simplifying the siting process for diversion facilities, consideration of landfill expansion before searching for green-field sites, staged acceptance of waste management plans, and compensation to proponents for modifications to the planning process.

While AMO is generally supportive of the proposed planning process, AMO is concerned the proposed approvals process will be ineffective without legislative support. It is for this reason that AMO urges the MOE to create planning and approvals legislation to replace the Waste Management Master Plan program and the Environmental Assessment Act. This legislation would be best placed in a new waste management act. Ultimately, all legislation relating to waste management should be contained in this new act.

Finally, AMO strongly believes waste management issues cannot be effectively discussed without first working out the related financing issues. AMO thus recommends that the "Who Pays" discussion paper, now being developed by the WRO, be accelerated, and that this paper address waste management service delivery and its related financial responsibilities.

SUMMARY OF RECOMMENDATIONS

RECOMMENDATION #1:

The Ministry of the Environment should make the division of waste management responsibilities between the Provincial and municipal levels of government, especially financial responsibilities, an item of the highest priority. The Ministry should initiate discussions on this matter and should also ensure that AMO is an equal partner in these discussions.

RECOMMENDATION #2:

The Ministry of the Environment should discuss waste management planning, and any other Provincial waste management initiatives, in the broader context of "who pays." This should be done by accelerating the Waste Reduction Office's forthcoming initiatives paper on the subject.

RECOMMENDATION #3:

In any new funding mechanism for waste management planning studies, the Ministry of the Environment should ensure that:

- **the Province pay for at least half of the study costs; and**
- **community characteristics, such as population or total tax base, are recognized.**

The Ministry of the Environment should discuss the waste management planning funding mechanism in the broader discussion of waste management financing and responsibilities.

RECOMMENDATION #4:

The Ministry of the Environment should discuss waste management facilities funding in the broader discussion of waste management funding and responsibilities.

RECOMMENDATION #5:

The Provincial government should work with AMO to develop a waste management act, separate from the Environmental Assessment Act, which addresses waste management for all Ontario municipalities.

The new act should include:

- **a guiding vision statement;**

- a Provincial waste strategy;
- clarification of the waste management roles and responsi-bilities of the province and municipalities;
- municipal statutory authorities;
- provisions for a regulated waste management planning process;
- other waste management requirements which are currently found in other legislation;
- new elements of waste management which result from the Waste Reduction Office's Initiatives Papers.

RECOMMENDATION #6:

The Ontario government should designate the Waste Reduction Office as the lead agency in municipal waste management.

RECOMMENDATION #7:

The Ministry of the Environment should direct the Waste Reduction Office to draft legislation for the creation of a waste management act. When developing the legislation and related regulations of the act, the Waste Reduction Office should work with AMO.

RECOMMENDATION #8:

The Ministry of the Environment should ensure that financial and service delivery issues are the first to be dealt with in the new waste management act.

RECOMMENDATION #9:

The Waste Reduction Office should formalize the guidelines of Initiatives Paper No. 2 by developing detailed regulations from them once the provincial consultation period is complete. These regulations should fall under the waste management act.

RECOMMENDATION #10:

The Minister of the Environment should give the Waste Reduction Office the responsibility of collecting and reviewing other legislation which relates to waste

management and ensuring its consistency before including it under the waste management act.

RECOMMENDATION #11:

The Provincial government should work with AMO to develop waste management planning and approvals legislation to be contained in a new waste management act. This legislation should replace the Waste Management Master Plan program and the Environmental Assessment Act. Regulations developed under this legislation should include:

- waste management planning regulations specifying guidelines and methodologies to be followed;
- MOE-approved technologies for controlling or processing waste products;
- acceptable waste management components;
- detailed public participation guidelines;
- a generic planning process with staged acceptance;
- definitive landfill siting regulations;
- an appeal mechanism;
- a permit-by-rule type approvals process; and
- a transition/compensation mechanism.

RECOMMENDATION #12:

The Ontario government should dedicate more resources to the important position of Provincial plan advisor. The government should ensure that:

- more than one advisor per regional office is provided;
- each proponent has a Ministry of the Environment advisory team of two.

RECOMMENDATION #13:

The Provincial government should include the costs of retaining legal counsel for advice in preparing a Waste Management System Plan Study in the items fundable under the Waste Management Plan Study program.

RECOMMENDATION #14:

The Ministry of the Environment should produce detailed drafts of the terms of reference, planning guide, and policy guide relating to the proposed waste management planning reforms as soon as possible.

RECOMMENDATION #15:

The Ministry of the Environment should develop definitive public participation guidelines for waste management planning requirements. These guidelines should clarify the expectations of the public participation process regarding the type and extent of input required. These guidelines should also outline the procedures to be followed at public consultation meetings.

RECOMMENDATION #16:

The Ministry of the Environment should not penalize any planning jurisdictions which have been following the WMMP program in good faith. If any parts of these plans must be reworked, the Province should fund 100 per cent of the rework.

RECOMMENDATION #17:

The Ministry of the Environment should ensure that municipalities are represented in discussions dealing with a transition mechanism for waste management planning changes.

RECOMMENDATION #18:

The Ministry of the Environment should develop generic waste composition models covering the range of municipalities in the Province. These models could be used as "off the shelf" databases suitable for use in Task 1 reports of Waste Management System Plan Studies.

RECOMMENDATION #19:

The Ministry of the Environment should:

- research the economic aspects of acceptable waste diversion technologies; and
- include the results of this research with the generic information which the Ministry will provide to waste management planning proponents.

RECOMMENDATION #20:

The Ministry of the Environment should develop definitive minimum standards for the siting of waste diversion facilities. Beyond meeting these requirements, municipal proponents should be given the latitude to site diversion facilities using established zoning guidelines and other local bylaws.

RECOMMENDATION #21:

The Ministry of the Environment should develop specific and comprehensive regulations which proponents can follow with confidence when preparing their landfill siting methodologies.

RECOMMENDATION #22:

The Ministry of the Environment should allow proponents the option of determining whether it is feasible to expand a current disposal facility. Exercising such an option would be done independently of any green-field analyses and well in advance of meeting landfill capacity limitations (at least five years in advance).

RECOMMENDATION #23:

If the Provincial government insists on a Provincial review for waste management plan approvals, it should:

- **limit review agency circulation lists to those agencies which can be reasonably expected to have concerns or comments on a particular waste management system plan;**
- **impose a time limit of 60 days on the review of Waste Management System Plan Study reviews; and**
- **dedicate the required resources to ensure that review agencies can perform satisfactory reviews within the required time limits.**

RECOMMENDATION #24:

The Ministry of the Environment should develop an EA Guidance / Decision Point which, when gained by the proponent, protects Tasks 1 through 4 from further challenge.

RECOMMENDATION #25:

The Ministry of the Environment should explicitly state that in order to gain approval at Task 5, proponents need only meet the requirements of the site selection methodology document and the Environmental Protection Act.

RECOMMENDATION #26:

The Ministry of the Environment should fully compensate proponents which are required to do more work as a result of unforeseen modifications to the waste management planning process. This protection should extend to any proponent doing a waste management plan, but especially to those which have completed the requirements of Task 4 of the Waste Management Systems Plan.

RECOMMENDATION #27:

The Provincial government should continue to include municipalities in the development of policies, legislation and regulations which follow from Initiatives Paper No. 2. The Province should also adopt an extensive municipal consultation process as standard practice for other waste management and environmental policies which impact municipalities.

APPENDIX A: Glossary of Terms

Municipal waste: along with residential curbside waste, this term includes non-hazardous, solid IC&I (industrial, commercial and institutional) wastes, and household hazardous waste.

Proponent: refers to a municipal planning jurisdiction which undertakes a waste management planning study.

Waste Management Master Plan program: the current Provincial program which encourages municipalities to prepare comprehensive, long-range waste management planning studies. The Province funds 50% of planning costs (consultants, study coordinators and other eligible expenses).

Waste Management Systems Planning program (WMSP program): the MOE-funded program which is proposed to replace the existing Waste Management Master Plan program.

Waste Management Systems Planning Study (WMSP Study): the study undertaken by proponents to meet the objectives of the WMSP program.

Waste Management Systems Plan: a document prepared for the Ministry of the Environment by the proponent as part of an EA submission for review. The document details the integrated system comprised of a diversion system strategy and other components essential for waste disposal (i.e. required landfill capacity). The plan presents a blueprint for the implementation, administration and financial management of the integrated system.

Waste management system: a system which integrates waste collection, waste disposal and diversion from disposal.

APPENDIX B: Background on Waste Management Planning

The Planning and Approvals Process

Ontario's Waste Management Master Plan (WMMP) program was introduced in 1982 by the Ministry of the Environment (MOE) to address the planning aspect of solid waste management. The program encourages municipalities to prepare a comprehensive waste management study by providing them with funding for the study. Funding covers 50% of the costs of consultants, study coordinators, and other eligible expenses. The WMMP program is voluntary and is not absolutely necessary for waste management planning.

This plan follows a three-stage process which leads to the development of a long-term (minimum 20-year) waste management system, and usually includes the siting of a landfill.

The stages of a WMMP are: 1) collection of data on the study area, current and expected waste parameters, and technology options; 2a) identification of candidate areas and markets and recommendation of facilities; 2b) analysis and ranking of alternative sites, systems and markets which leads to the selection of a preferred waste management system; 3a) master plan formulation which applies the preferred system to the study area; and 3b) preparation of a summary/overview document to be submitted for approval under the Environmental Assessment Act (EA Act).

While the WMMP process was not initially affected by the EA Act, over time the provisions of this act became applicable to the siting of landfills and other significant waste management facilities. Currently, the MOE's Environmental Assessment Branch (EA Branch) may assist proponents with waste management proposals, and the MOE's Approvals Branch recommends acceptance or rejection to the Minister of the Environment based on EA requirements. Under the EA Act, the Minister or the proponent (the municipal planning authority undertaking the study) may request a hearing to be held with the Environmental Assessment Board (EA Board). Thus, the EA Board has the ultimate decision as to whether a master plan is to be approved or not, and it does so based on EA criteria. The EA Board is in no way bound by the terms of the WMMP program. The WMMP was not designed to meet EA Act criteria.

The two administrative bodies that most affect a WMMP as it develops are the Waste Reduction Office (WRO) and the EA Branch. The WRO and the EA Branch are independent of each other and as a result, communication between the two is coordinated on an ad hoc basis.

Events Leading to Initiatives Paper No. 2

Before this document, AMO's most comprehensive statement on the WMMP was The Waste Management Planning and Approvals Process, which was published in March 1989. Throughout 1990 and 1991, an AMO/MOE/MMA Waste Management Planning and Approvals Implementation Committee examined and recommended ways to implement the recommendations made in this report.

On February 21, 1991, the Minister of the Environment announced the creation of the Waste Reduction Action Plan (WRAP). This plan is a framework for focusing waste management efforts on diverting waste from landfill. The purpose of the WRAP was to divert at least 25% of the Province's municipal waste from landfills by 1992 and 50% by the year 2000. The Waste Reduction Office (WRO) was also created as part of the WRAP. As part of its mandate, the WRO assumed the WMMP responsibilities of the Waste Management Branch.

As a result of the AMO/MOE/MMA Implementation Committee, the WRO, in consultation with the Environmental Assessment Branch, worked on the WMMP Action Plan over the summer of 1991. This plan addressed how waste diversion could be incorporated into an improved waste management planning process. AMO had two representatives on the steering committee which oversaw the activities of the WMMP Action Plan. Six discussion groups were formed to assist with master plan reform. AMO was represented on one of these groups - the WMMP Process Discussion Group.

The WMMP Action Plan process led to the MOE's Initiatives Paper No. 2, Waste Management Planning in Ontario.

APPENDIX C: AMO's Previous Policies Regarding the Waste Management Planning Process

Over the past several years AMO has published several reports which have voiced AMO's concerns with the waste management planning process. These concerns have addressed two main areas: fundamental reform to the waste management planning and approvals process, and required improvements to the existing planning system.

1) Fundamental Reform to Waste Management Planning and Approvals

AMO has promoted fundamental reforms in the way the waste management planning process is carried out. AMO believes that reforms are necessary because the current system does not work. Reforms are needed to improve the efficiency of waste management planning by reducing the uncertainty for proponents and reducing the duplication of effort on the part of the Province. A new waste management act would provide such reform.

In The Waste Management Planning and Approvals Process (March 1989), Recommendation #12 states that the Province should undertake a review of legislation relating to municipal waste management, and this review should streamline and eliminate duplication of requirements.

The planning and approvals document also notes that the EA Act was initially introduced to fill a void in the land use planning process: the methodical and thorough consideration of the environment. AMO agreed that environmental considerations are important, but has suggested another option. In AMO's Response to Bill 143 (January 1992, #92-5), AMO recommended adapting the EA philosophy to one aspect of land use planning - solid waste management. Recommendation #2 of this latter paper urged the MOE to develop a waste management act separate from the EA Act:

> The Provincial government should work with AMO to develop a waste management act, separate from the Environmental Assessment Act, which addresses solid waste management for all Ontario municipalities and which applies equitably and fairly to all Ontario municipalities.

2) Improving the Existing Planning System

AMO has raised a number of difficulties regarding the current WMMP process and has made many recommendations on how the waste management planning process could be improved. These comments and recommendations are now reviewed. (Unless otherwise noted, the recommendations presented

here are based on AMO's 1989 report The Waste Management Planning and Approvals Process.)

2a) Time and Cost

The amount of time and cost allocated to the WMMP process is of major concern to municipalities. Ways must be found to streamline the processes of waste management facility siting and approval. Many of AMO's concerns about the WMMP process revolve around the involvement that the EA Act has with the process.

AMO's recommendations have promoted a number of measures which could reduce the time and cost for municipalities doing WMMPs. Recommendations include:

- The MOE's Waste Composition Study (which was being compiled in 1989) should be used to create generic waste composition models covering the range of municipalities in the Province. These models would provide off-the-shelf data bases for those doing WMMPs instead of requiring them to collect original data. These models should be acceptable under the EA Act (Recommendation #21).

- A scoping mechanism should be developed and adopted under the EA Act. This mechanism should (among other things) involve all affected parties, address the range of issues and the level of detail to which each issue should be studied, and bind the EA Board (Recommendation #3).

- Guidelines stipulating the level of detail required by the EA Act should be developed to eliminate the problem of "over-studying" an EA requirement (Recommendation #4).

- The government review agency circulation lists should be limited (Recommendation #5).

- Time limits should be imposed on government reviews (Recommendation #6).

- The costs of retaining legal counsel for advice in preparing a WMMP study should be included in the WMMP funding program (Recommendation #15).

2b) Provincial Direction

There has been a lack of Provincial direction and leadership with respect to carrying out a Waste Management Master Plan. The multiple sources of

information which are given to proponents have not clarified the process and they have at times, added to proponents' confusion. In order to improve this situation, AMO has recommended that:

- In order to facilitate communication with proponents and promote consistent information from the MOE, the Province should coordinate communication through "one window" (Recommendation #8).

- The Province should create standards for determining acceptability of waste management systems and technologies. These standards should be made publicly available and provided to proponents as early in the WMMP process as possible (Recommendation #27).

- Guidelines should be published by the MOE on concrete requirements of the environmental assessment process (Recommendation #4).

- The Ontario government should develop a generic model to reduce waste which municipalities across the Province can follow (Recommendation #15, AMO's Policy Position on Reduction and Reuse).

- The Provincial government should formalize its incineration policy and bind the EA Board with this policy (Recommendation #11, AMO's Policy Position on Reduction and Reuse). Confusion exists because WMMP's are being encouraged by the MOE not to consider incineration as a disposal option, and yet the EA Act states that all options must be considered.

2c) Provincial Roles and Resources

Proponents have stated that many timing delays at the Provincial level are caused by uncertainties in the roles of the relevant Provincial agencies and a lack of resources within the ministry to carry out the WMMP requirements. Thus, AMO has recommended that:

- The MOE should clarify and demarcate the roles and responsibilities of the EA Branches and the Waste Management Branch (now the WRO) with respect to municipal waste management (Recommendation #10).

- The Waste Management Branch should be the lead agency in municipal waste management (Recommendation #11).

- The MOE should commit the financial resources for obtaining qualified staff to fulfil the Provincial requirements of the WMMP

program. If this cannot be done, the MOE should review its role in this program (Recommendation #24).

- The MOE should expand the EA Board membership to avoid backlogs (Recommendation #25).

2d) Public Participation

The WMMP requires proponents to consult with the public and incorporate their comments into the plan. However, no guidelines have been provided by the Province. The MOE should indicate the boundaries for public discussion and indicate how much public input is necessary. In order to promote consistency throughout the Province AMO has recommended that:

- The MOE should develop generic public participation models outlining public involvement methods and techniques applicable to the needs in the WMMP program (Recommendation #26).

- Pre-submission consultation should be given formal status through inclusion in the Environmental Assessment Act to eliminate inconsistencies with the WMMP process (Recommendation #14).

AMO has also expressed interest in the development of rules of procedure to be followed in WMMP public meetings.

2e) Public Education

An informed public is essential in making meaningful comments and suggestions. It also reduces the time required to conduct the public consultation processes. In order to facilitate these activities, AMO recommended that the MOE should have personnel with an environmental health background attend public meetings to explain how health standards are derived (Recommendation #28). AMO also recommended that the MOE conduct a review of the City of London Victoria Hospital energy-from-waste facility and make emission results publicly available (Recommendation #29).

2f) Approvals

Under the current WMMP, only two approvals are required by the Province: one to initially qualify for Provincial funding and another at the completion of the planning exercise. Plans take many years and much expense to prepare. Although plans are reviewed by different Provincial agencies at different stages of the process, proponents receive only suggestions or recommendations, and they remain unsure whether their plans will be accepted at the end of the WMMP process.

Recommendation #22 of AMO's planning and approvals document called for generic waste management models to be developed by the Ministry and that these be listed as acceptable under the EA Act. These models could be used by municipalities with confidence in their later approval.

In an attempt to have Provincial recommendations recognized by approval agencies, AMO recommended that the MOE should develop a staged acceptance of the WMMP Terms of Reference. If a stage is not acceptable, a communication explaining why should be issued. Acceptance of a stage by MOE senior staff should also serve as a commitment for its support when the study is submitted for approval and again at an EA Board hearing (Recommendation #23).

2g) Transition

There are a number of municipalities in the process of WMMPs under the current terms of reference. AMO wishes to protect these municipalities from any negative impacts that may result from changes to the WMMP program. Thus, AMO urged that these proponents be assisted as much as possible and not be penalized in any way.

APPENDIX D: References

Association of Municipalities of Ontario. The Waste Management Planning and Approvals Process. Toronto: AMO, 1989 (Waste Management Series 1989).

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APPENDIX E: Acknowledgments

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